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Han S. Cho

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HAN S. CHO

Appeal 2008-1739
Application 09/941,265
Technology Center 2600

Decided: January 12, 2009

Before MAHSHID D. SAADAT, ROBERT E. NAPPI, and JOHN A.
JEFFERY, *Administrative Patent Judges*.

JEFFERY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134 from the Examiner's rejection of claims 1-19. We have jurisdiction under 35 U.S.C. § 6(b). We affirm-in-part.

STATEMENT OF THE CASE

Appellant invented a method for sending information stored in a wireless communication device. In one embodiment, plural communication addresses (e.g., telephone numbers) are distinguished by the number of sequential key inputs of the device. For example, a first address is associated with one input of an input key, a second address is associated with two inputs of the same key, and a third address is associated with three inputs of that key. The addresses are transmitted from the wireless device after entering the inputs and maintaining the last of the sequential key inputs for a predetermined time interval.¹ Claims 1 and 9 are illustrative:

1. A method for sending information stored in a wireless communication device, comprising:

associating information stored on the wireless communication device with sequential inputs from an input key on the wireless communication device, the sequential inputs including a first input and a last input;

transmitting stored information from the wireless communication device by entering sequential inputs associated therewith and maintaining the last input thereof for a minimum input time interval.

9. A method for transmitting an Internet address from an Internet enabled mobile wireless communication device, comprising:

associating an Internet address stored on the mobile wireless communication device with at least one key input on the mobile wireless communication device;

transmitting the stored Internet address from the mobile wireless communication device by entering the key input associated therewith and maintaining the key input for a minimum input time interval.

¹ See generally Abstract; Spec. 6:8-17.

The Examiner relies on the following prior art references to show unpatentability:

Joglekar	US 5,535,258	Jul. 9, 1996
Tiilikainen	US 5,710,810	Jan. 20, 1998
Jang	US 2002/0091754 A1	Jul. 11, 2002 (filed Dec. 26, 2000)
Mager	US 2003/0017839 A1	Jan. 23, 2003 (filed Jul. 17, 2001)

1. The Examiner rejected claims 1, 2, 5, and 12 under 35 U.S.C. § 102(b) as anticipated by Joglekar (Ans. 4-5).
2. The Examiner rejected claims 1, 2, 5, 9, and 12 under 35 U.S.C. § 102(e) as anticipated by Jang (Ans. 5-6).
3. The Examiner rejected claims 3, 4, 6-8, and 13-18² under 35 U.S.C. § 103(a) as unpatentable over Jang and Tiilikainen (Ans. 7-9).
4. The Examiner rejected claims 10 and 11 under 35 U.S.C. § 103(a) as unpatentable over Jang (Ans. 8).
5. The Examiner rejected claim 19 under 35 U.S.C. § 103(a) as unpatentable over Jang, Tiilikainen, and Mager (Ans. 9).
6. The Examiner rejected claims 3, 4, 6-8, and 13-17 under 35 U.S.C. § 103(a) as unpatentable over Joglekar and Tiilikainen (Ans. 9-10).
7. The Examiner rejected claim 19 under 35 U.S.C. § 103(a) as unpatentable over Joglekar, Tiilikainen, and Mager (Ans. 10-11).

² Although the Examiner rejects claim 18 over Jang and Tiilikainen in a separate paragraph in the Answer (§ 7; Ans. 8-9) from the paragraph rejecting the other claims over these references (§ 5; Ans. 7-8), we group these claims together here for clarity and brevity.

Rather than repeat the arguments of Appellant or the Examiner, we refer to the Briefs and the Answer³ for their respective details. In this decision, we have considered only those arguments actually made by Appellant. Arguments which Appellant could have made but did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

THE ANTICIPATION REJECTION OVER JOGLEKAR

Regarding the Examiner's anticipation rejection of representative claim 1,⁴ Appellant argues that Joglekar does not disclose *maintaining* the last input from sequential inputs from an input key for a minimum input time interval as claimed. According to Appellant, Joglekar does not disclose depressing the input key for any longer than is required to actuate the switch and therefore does not *maintain* this input as the term is used in light of the Specification (App. Br. 5-7; Reply Br. 4-5; emphasis added). Appellant emphasizes that since the claim recites both (1) entering sequential inputs, *and* (2) maintaining the last key input for a minimum input time interval, the "maintaining" limitation must mean something more than merely entering the inputs; otherwise, the limitation would be redundant (Reply Br. 4-5).

³ Throughout this opinion, we refer to (1) the Appeal Brief filed Apr. 4, 2006 (supplemented Sep. 5, 2007); (2) the Examiner's Answer mailed July 7, 2006; and (3) the Reply Brief filed July 26, 2006.

⁴ Although Appellant nominally argues independent claims 5 and 12 separately from claim 1 (App. Br. 7-9), the arguments presented for claims 5 and 12 are substantially the same as those presented for claim 1. Accordingly, we treat claims 1, 2, 5, and 12 as a single claim grouping, and select claim 1 as representative of this group. *See* 37 C.F.R. § 41.37(c)(1)(vii).

The Examiner responds that Appellant's arguments are not commensurate with the scope of the claim language and, in any event, the term "maintaining" can be broadly interpreted as "to keep in an existing state." As such, the Examiner contends that Joglekar's teaching of depressing the key within a predetermined time period to initiate automatic dialing fully meets the claim (Ans. 13).

The issue before us, then, is as follows:

ISSUE

Has Appellant shown that the Examiner erred in finding that Joglekar maintains the last sequential input from an input key for a minimum input time interval in rejecting claim 1 under § 102?

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence:

1. Joglekar discloses a radio telephone interface for speed dialing stored telephone numbers (Joglekar, Abstract; col. 3, ll. 10-18).
2. The interface 300 comprises a keypad 306 connected to a processor 378 via a number of interconnect lines 348, 354, 360, 366, and 372. The keypad includes a number of keys 312-336 that, when depressed, actuate switches. This switch actuation is indicated in the form of signals inputted to the processor (Joglekar, col. 7, l. 66—col. 8, l. 18; Fig. 8).
3. Telephone numbers are stored in an electronic memory (i.e., directory 200) which can comprise a portion of the processor circuitry. The

directory comprises multiple directory locations 200-1 through 200-N that are individually accessed by a pointer 206 (Joglekar, col. 6, ll. 17-45; Fig. 3).

4. Sequentially depressing the “M1” key 318 enables the user to automatically dial different stored telephone numbers depending on the number of times the key is pressed within a predetermined time period. Specifically, pressing key 318 once within that period initiates dialing of a telephone number stored in a first directory location. Pressing key 318 twice within that period initiates dialing a telephone number stored in a second directory location. Likewise, pressing key 318 three times within the period initiates dialing a telephone number stored in a third directory location (Joglekar, col. 10, ll. 15-49; Fig. 5).

5. To this end, each time key 318 is pressed, the resulting switch actuation generates a corresponding interrupt-access signal that is applied to the processor. Based on the number of interrupt-access signals, the processor then positions an interrupt-access pointer at the corresponding directory location. The processor then initiates automatic dialing of the telephone number associated with that selected directory location (Joglekar, col. 10, ll. 15-49; Figs. 5, 8).

PRINCIPLES OF LAW

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. *RCA Corp. v. Appl. Dig. Data Sys., Inc.*, 730 F.2d 1440, 1444 (Fed. Cir. 1984); *W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554 (Fed. Cir. 1983).

ANALYSIS

We begin our analysis by construing the key disputed limitation of claim 1 which calls for, in pertinent part, *maintaining* the last input from an input key for a minimum input time interval. Appellant defines the term “maintain” as “[t]o keep in an existing state; preserve or retain....” (App. Br. 6). The Examiner does not dispute this definition (Ans. 13)—nor do we.

Under this definition, we find no error in the Examiner’s position that Joglekar maintains the last input for a minimum input time interval as claimed. While Appellant is correct that Joglekar does not teach depressing the key longer than that required to actuate the switch (App. Br. 8), it is the process that follows this actuation in Joglekar that requires maintaining the last input for at least a minimum input time interval.

We reach this conclusion noting that when a user presses key 318 in Joglekar, three key events occur in succession: (1) a switch is actuated; (2) a corresponding interrupt-access signal is generated; and (3) that signal is applied to the processor (FF 2, 5). Then, several key processing events occur in succession: (1) the processor essentially counts the number of these signals within a certain time period, and then (2) positions a pointer accordingly to look up the associated telephone number stored in a directory (FF 5).

This functionality does not occur instantaneously. That is, there is at least a minimum time delay between (1) the time when the user depresses the key and when the switch is actuated; (2) the time when the switch is actuated and when the corresponding signal is generated; (3) the time when that signal is generated and when the processor processes that signal; and (4)

the time when such processing is initiated and when the processing is complete (i.e., receiving and counting the signal(s), positioning the directory's pointer accordingly, and initiating automatic dialing of the associated telephone number).

In view of this sequential process, Joglekar's system would maintain the last input (i.e., it would be kept in an existing state) to generate, transmit, and process the signals associated with user's depression of the key to achieve the automatic dialing functionality described above. That the keypad 306 is located remote from the processor 378 and interconnected thereto via interconnect lines (FF 2) only bolsters our conclusion that the inputs originating from the keypad would be maintained at least for a time interval for transmission to the processor. Moreover, as we noted above, the processor would likewise maintain these inputs at least for the time needed to perform the requisite processing functions on those received inputs.

For the foregoing reasons, Appellant has not persuaded us of error in the Examiner's anticipation rejection of representative claim 1. Therefore, we sustain the Examiner's rejection of that claim, and claims 2, 5, and 12 which fall with claim 1.

THE ANTICIPATION REJECTION OVER JANG

Regarding the Examiner's anticipation rejection over Jang, Appellant argues that the reference does not qualify as prior art in view of the submitted declarations in the Evidence Appendix. Specifically, Appellant contends that these declarations establish (1) conception of the invention of the claimed subject matter before Jang's filing date (December 26, 2000), and (2) diligence from a time prior to Jang's filing date to the filing date of

the present application's corresponding provisional application (March 30, 2001) (App. Br. 3-5; Reply Br. 1-2).

The Examiner, however, contends that the declarations do not establish conception of all recited limitations before Jang's filing date, namely the limitations pertaining to Internet-based wireless communications (Ans. 11-12).

The issue before us, then, is as follows:

ISSUE

Has Appellant shown that the Examiner erred in relying on Jang in rejecting claims 1, 2, 5, 9, and 12 under § 102? The issue turns on whether Appellant has disqualified Jang as prior art by showing (1) the subject matter of the claimed invention was conceived before Jang's filing date, and (2) Appellant exercised reasonable diligence from a time before Jang's filing date to when the invention was constructively reduced to practice.

FINDINGS OF FACT

The record supports the following additional findings of fact (FF) by a preponderance of the evidence:

6. The present application claims benefit of provisional application 60/280,224 filed March 30, 2001.

7. Jang is a published U.S. patent application that was filed on December 26, 2000.

8. The declaration under 37 C.F.R. § 1.131 of Han S. Cho ("the Cho declaration") avers that the claimed subject matter of the present application

was conceived in the United States or other provincial region before December 26, 2000 (Ev. App'x).

9. Attached to this declaration is a Motorola invention disclosure document for Disclosure No. CS-11122 for an invention named "Memory Key" (Item 1). The invention is briefly described in Item 3 which indicates that "[b]y adding multiple, repeating, numbers as a mememory [sic] location for phone/pager numbers, users can easily associate someone's numbers (office, home, cell, pager, etc.) into one set of memory location [sic] (i.e. 5, 55, 555, 5555, etc.)" (Ev. App'x; "the Cho declaration").

10. The last page of this invention disclosure document notes that "[i]t will be nice to associate all the telecommunication numbers of one person to one particular character from 1 to 9...." The document further describes an exemplary implementation of the invention that enables assignment of (1) a cell phone number to memory location 7; (2) a home number to memory location 77; (3) an office number to memory location 777; and (4) a pager number to memory location 7777, etc. (*Id.*)

11. The supplemental declaration under 37 C.F.R. § 1.131 of Roland K. Bowler II ("the Bowler declaration") avers that diligence has been established in preparing the present U.S. patent application from a time prior to December 26, 2000 to the filing date of the present application's corresponding provisional application 60/280,224 (March 31, 2001) (Ev. App'x; "the Bowler declaration").

12. The Bowler declaration notes that an invention disclosure (Attorney Docket No. CS11122) forming the subject matter of the referenced invention was docketed after the disclosure was reviewed by a Motorola Patent Committee on or before Jang's effective filing date (*Id.*).

13. Mr. Bowler declares that he worked on the preparation of and/or filing of twelve docketed patent applications between December 26, 2000 and March 30, 2001. One of these docketed patent applications includes “Docket No. CS111222 - Cho” (*Id.*).

14. Mr. Bowler further declares that he sent (1) a draft patent specification and drawings to the inventor prior to March 28, 2001, and (2) a revised patent specification to the inventor on March 28, 2001. Exhibit A of the Bowler declaration is an email dated March 28, 2001 from Roland Bowler to Han Cho asking for review of an attached revised patent specification (*Id.*).

15. Mr. Bower also declares that, upon final review and approval of the specification and drawings by the inventor on March 30, 2001, the provisional application 60/280,224 was filed that day.

PRINCIPLES OF LAW

“Conception is defined as formation in the mind of the inventor, of a definite and permanent idea of the complete and operative invention, as it is hereafter to be applied in practice....” *Brand v. Miller*, 487 F.3d 862, 869 n.4 (Fed. Cir. 2007) (internal quotation marks and citations omitted).

Reasonable diligence can be shown by establishing that “the attorney worked reasonably hard on the particular application in question during the continuous critical period.” *Bey v. Kollonitsch*, 806 F.2d 1024, 1027 (Fed. Cir. 1986).

“The filing of a patent application is a constructive reduction to practice of the invention disclosed therein.” *Frazer v. Schlegel*, 498 F.3d 1283, 1288 (Fed. Cir. 2007).

ANALYSIS

Based on the record before us, we find that Appellant has provided sufficient evidence to antedate the Jang reference with respect to claims 1, 2, 5 and 12, but not independent claim 9. Independent claim 1 calls for, in pertinent part, transmitting stored *information* from the wireless communication device by entering the sequential inputs associated therewith. Independent claims 5 and 12 are somewhat narrower in this regard as they pertain to transmitting a stored *communication address*.

Although the invention disclosure document attached to the Cho declaration (FF 8-10) does not expressly use this broad language, we nevertheless find that this subject matter is at least reasonably suggested in that document. Specifically, the invention disclosure document discusses storing various numbers—namely a cell phone number, a home number, an office number, and a pager number—to distinct memory locations (FF 9-10). These stored numbers, in our view, reasonably support the broader recitation of stored information or addresses. We therefore find that Appellant conceived the subject matter of the invention recited in independent claims 1, 5, and 12 before the filing date of the Jang reference (December 26, 2000).

We reach the opposite conclusion, however, with respect to independent claim 9 which calls for transmitting stored Internet addresses. As we noted above, the invention disclosure document attached to the Cho declaration pertains to storing phone and pager numbers (FF 9-10). But the document is silent regarding using the device in connection with the Internet, let alone storing Internet addresses for transmission as claimed in

claim 9. Indeed, Appellant all but concedes this point in the Reply Brief by admitting that “the original disclosure did not explicitly specify an Internet address” (Reply Br. 2).

Appellant’s argument that skilled artisans would nonetheless understand that this disclosure would include Internet addresses (Reply Br. 2) is unavailing. While we can envision phone or pager numbers as constituting species of “communication addresses,” there is simply nothing on this record to suggest that Internet addresses were contemplated in the relatively brief invention disclosure document that forms the basis for Appellant’s conception argument. Simply put, the invention described in that document is limited to storing *numbers*—not Internet addresses. We therefore do not find that Appellant conceived the invention of independent claim 9 before the filing date of Jang (Dec. 26, 2000).

We do, however, find that Appellant constructively reduced the invention to practice on March 30, 2001 by filing the present application’s corresponding provisional application 60/280,224 that day. *See* FF 6, 15; *see also Frazer*, 498 F.3d at 1288 (noting that the filing of a patent application is a constructive reduction to practice). And we find sufficient evidence on this record that Appellant’s attorney exercised reasonable diligence in preparing the provisional patent application 60/280,224 from a time before Jang’s filing date to the filing date of that provisional application (i.e., the constructive reduction to practice). We reach this conclusion noting the extent of Mr. Bowler’s docket at that time (FF 13) and the relatively swift filing of the application following the inventor’s review of a draft and revised patent specifications (FF 14-15). In our view, this evidence establishes that the attorney worked reasonably hard on the particular

application in question during the continuous critical period to show reasonable diligence on the attorney's part. *See Kollonitsch*, 806 F.2d at 1027.

In sum, while we find that the two declarations collectively establish conception, reduction to practice, and reasonable diligence during the critical period with respect to the claimed subject matter broadly, we do not find evidence establishing conception for the narrower Internet address limitations. Accordingly, we find that Appellant has not antedated the Jang reference with respect to the Internet address limitations (e.g., claim 9), but has antedated the reference with respect to the other recited limitations.

Accordingly, we do not sustain the Examiner's anticipation rejections of claims 1, 2, 5, and 12 based on Jang, but we will sustain the Examiner's anticipation rejection of claim 9 based on that reference.

THE OBVIOUSNESS REJECTIONS BASED ON JANG PRINCIPLES OF LAW

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966).

Discussing the question of obviousness of claimed subject matter involving a combination of known elements, *KSR Int'l v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007), explains that if the claimed subject matter cannot be fairly characterized as involving the simple substitution of one known element for another or the mere application of a known technique to a piece

of prior art ready for the improvement, a holding of obviousness can be based on a showing that “there was an apparent reason to combine the known elements in the fashion claimed.” *Id.* at 1740-41. Such a showing requires

some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

Id. at 1741 (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

If the Examiner’s burden is met, the burden then shifts to the Appellant to overcome the prima facie case with argument and/or evidence. Obviousness is then determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. *See In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

FINDINGS OF FACT

The record supports the following additional findings of fact (FF) by a preponderance of the evidence:

16. Jang discloses a wireless Internet shortcut connection method that converts a numerical combination of at least one number to an Internet site Uniform Resources Locator (URL) (Jang, Abstract).

17. In one embodiment, a shortcut dialing function in Jang can be employed in which a button (e.g., “1”) can be pressed for “a little long” to automatically dial a preset code and numbers. The combination of the

numbers can use any numbers such as “2002,” “2000,” “2424,” etc. (Jang, ¶¶ 0054-55).

18. In Jang, the terminal can utilize a mapping table as shown in Figure 6 where each alphabetical character is represented with a single number. For example, if the numbers “999” are input following the connection code “#,” the numbers following this connection code is the URL displayed by the mapping table (Jang, ¶¶ 0064-66; Fig. 6).

19. Tiilikainen discloses a method for quickly selecting and dialing one of plural telephone numbers associated with the same identification (e.g., a particular individual). Specifically, the user first searches for an identification on a display corresponding to the stored number (e.g., a name in a particular row of the display (24a-c)). The user also selects a corresponding number (e.g., work, home, or mobile) associated with that identifier (name) by selecting the corresponding column 25-27 (Tiilikainen, Abstract; col. 1, l. 64 - col. 2, l. 11; col. 3, ll. 6-41; Fig. 3).

ANALYSIS

Claims 3, 4, 6-8, and 13-19

Since the Jang reference does not qualify as prior art with respect to independent claims 1, 5, and 12 as noted above, we will not sustain the Examiner’s obviousness rejections of dependent claims 3, 4, 6-8, and 13-19 based on the Jang reference for this reason alone. Accordingly, we need not address Appellant’s arguments pertaining to the alleged deficiencies of the cited prior art with respect to the specific limitations of claims 3, 6, 7, 13, and 14 (App. Br. 10-14).

Claims 10 and 11

We, however, sustain the Examiner's obviousness rejection of claims 10 and 11 based on Jang since Jang does qualify as prior art for the Internet address limitations of those claims. To the extent that Appellant's arguments pertaining to Jang apply to these claims, we are not persuaded that the Examiner erred in rejecting these claims over the reference's collective teachings.

We agree with the Examiner that Jang at least suggests associating a communication address with multiple strokes of the same input key. Not only does Jang indicate that *any* numbers could be used in connection with its shortcut dialing function, the scope of the claim language does not preclude the cited examples that actually use numbers with repeating digits, namely "2002," "2000," "2424" (FF 17). These repeating digits would involve multiple sequential strokes of the same input key—a feature that fully meets the disputed limitation given its breadth, notwithstanding the presence of additional strokes of different keys. In any event, Jang provides an example where the numbers "999" are entered in connection with a connection code (FF 18). These teachings, in our view, reasonably suggest associating a communication address with multiple strokes of the same input key.

For the foregoing reasons, Appellant has not persuaded us of error in the Examiner's rejection of claims 10 and 11 based on Jang.

THE OBVIOUSNESS REJECTIONS BASED ON JOGLEKAR

Likewise, we sustain the Examiner's obviousness rejections of (1) claims 3, 4, 6-8, and 13-17 over Joglekar and Tiilikainen, and (2) claim 19

over Joglekar, Tiilikainen, and Mager. Notably, Appellant did not present any arguments with respect to these rejections, let alone particularly point out errors in the Examiner's reasoning to persuasively rebut the Examiner's prima facie case of obviousness based on these references.

Nevertheless, to the extent that Appellant's arguments regarding the alleged deficiencies of Tiilikainen in connection with the rejection based on Jang (App. Br. 10-14) apply to this rejection, we find these arguments unavailing. The Examiner relied on Tiilikainen merely to show that it is known in the art to associate multiple phone numbers (i.e., addresses) with a common identifier, namely an individual's name. *See* Ans. 7, 10, 14. Tiilikainen reasonably supports the Examiner's position since the reference clearly teaches that plural telephone numbers (e.g., work, home, and mobile) can be associated with the same individual (FF 19). We find no error in the Examiner's combining this fundamental teaching with Joglekar to arrive at the claimed invention. Such an improvement is tantamount to the predictable use of prior art elements according to their established functions. *See KSR*, 127 S. Ct. at 1740.

Thus, we are not persuaded that the Examiner erred in rejecting (1) claims 3, 4, 6-8, and 13-17 over Joglekar and Tiilikainen, and (2) claim 19 over Joglekar, Tiilikainen, and Mager. The rejections are therefore sustained.

CONCLUSIONS

Under § 102, Appellant has not shown that the Examiner erred in rejecting (1) claims 1, 2, 5, and 12 over the disclosure to Joglekar, or (2) claim 9 over the disclosure to Jang. Appellant, however, has shown that the

Examiner erred in rejecting claims 1, 2, 5, and 12 over the disclosure to Jang under § 102.

Under § 103, Appellant has not shown that the Examiner erred in rejecting (1) claims 3, 4, 6-8, and 13-17 over Joglekar and Tiilikainen; (2) claim 19 over Joglekar, Tiilikainen, and Mager; and (3) claims 10 and 11 over Jang. Appellant, however, has shown that the Examiner erred in rejecting (1) claims 3, 4, 6-8, and 13-18 over Jang and Tiilikainen, and (2) claim 19 over Jang, Tiilikainen, and Mager under § 103.

ORDER

We have sustained the Examiner's decision rejecting claims 1-17 and 19, but we have not sustained the Examiner's decision rejecting claim 18. Accordingly, the Examiner's decision rejecting claim 1-19 is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

Appeal 2008-1739
Application 09/941,265

AFFIRMED-IN-PART

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